

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT DELAWARE**

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ZAXCOM, INC.,	:
	:
Plaintiff,	:
	:
v.	:
	:
	:
RODE MICROPHONES, LLC. and	:
FREEDMAN ELECTRONICS PTY LTD.,	:
	:
Defendants.	:
	:
----- x	

C.A. No. 23-1245-JFM

**JURY TRIAL REQUESTED**

**PLAINTIFF'S MOTION FOR DEFAULT**

**DECLARATION OF SEAN O'KELLY**

**Exhibit-A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT DELAWARE**

	X	
	:	
ZAXCOM, INC.,	:	
	:	
Plaintiff,	:	
	:	C.A. No. 23-1245-JFM
v.	:	
	:	
	:	<b>JURY TRIAL REQUESTED</b>
RODE MICROPHONES, LLC. and	:	
FREEDMAN ELECTRONICS PTY LTD.,	:	
	:	
Defendants.	:	
	:	
	X	

**DECLARATION OF PLAINTIFF'S COUNSEL SEAN O'KELLY**

I, Sean O'Kelly, file this sworn Declaration pursuant to 28 U.S.C. § 1746:

1. I am over 21 years of age, of sound mind and body, and testify to the following from my own personal, first-hand knowledge; statements based on my information and belief are so indicated.
  
2. I am counsel for Plaintiff Zaxcom, Inc. ("Zaxcom") in the above-styled action and file this Declaration in support of Zaxcom's concurrently filed Motion for Default.
  
3. Zaxcom filed its Complaint (D.I.1) on October 31, 2023, naming Rode Microphones, LLC ("Rode"), and Freedman Electronics Pty Ltd. ("Freedman") as Defendants.
  
4. The Corporation Trust Company ("Rode's Agent for Service of Process") is the registered agent for Rode Microphones, LLC, and the registered address of The Corporation Trust Company is 1209 Orange St., Wilmington, Delaware 19801. (D.I.1-1)
  
5. On December 4, 2023, an attempt was made to serve Freedman with the Complaint and Summons in this action through personal service on Rode's Agent for Service of Process, The

Corporation Trust Company, with the service documents identified as "Freedman Electronics c/o Rode Microphones, LLC." Exhibit A1 is a copy of the Proof of Service to Freedman Electronics PTY LTD and Rode Microphones, LLC.

6. On December 4, 2023, service for Freedman was rejected, as The Corporation Trust Company responded that it is not the registered agent for Freedman. Exhibit A2 is a copy of the Notice of Rejected Service of Process.

7. On December 30, 2023, service on Freedman was initiated via The Hague Convention, with the documents showing as delivered as of January 3, 2024, on the Australian Central Authority. Exhibit A3 is a copy of the FedEx transaction details, showing that the documents were delivered.

8. On February 6, 2024, and February 20, 2024, Plaintiff's counsel attempted to contact the Central Authority of Australia via email and received no response. Exhibit A4 is a copy of the email correspondence.

9. Plaintiff's counsel also attempted to contact the Central Authority of Australia via telephone to inquire about an update on service. The phone line's recorded message communicated that the telephone number was "no longer in service."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, that the foregoing is true and correct.

Executed on March 8, 2024.

  
Sean O'Kelly

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT DELAWARE**

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	:	
ZAXCOM, INC.,	:	
	:	
Plaintiff,	:	
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FREEDMAN ELECTRONICS PTY LTD.,	:	
	:	
Defendants.	:	
	:	
-----	X	

**PLAINTIFF'S MOTION FOR DEFAULT**

**PROOF OF SERVICE**

Exhibit-A1

AO 440 (Rev. 06/12) Summons in a Civil Action

## UNITED STATES DISTRICT COURT

for the

District of Delaware

Zaxcom, Inc

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Plaintiff(s)

v.

Rode Microphones, LLC. and  
Freedman Electronics PTY LTD

---

Defendant(s)

Civil Action No. 1:23-cv-01245-CFC

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Freedman Electronics PTY LTD  
 c/o Rode Microphones, LLC  
 c/o Corporation Trust Center  
 1209 Orange Street  
 Wilmington, DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Sean T. O'Kelly  
 O'KELLY & O'ROURKE, LLC  
 824 N. Market Street, Suite 1001A  
 Wilmington, DE 19801

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.



Date: 10/31/2023

CLERK OF COURT

/s/ Randall Lohan

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:23-cv-01245-CFC

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for (name of individual and title, if any) Freedman Electronics PTY LTD  
 was received by me on (date) 11/27/2023.

☐ I personally served the summons on the individual at (place) \_\_\_\_\_  
 on (date) \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with (name) \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on (date) \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☒ I served the summons on (name of individual) Robin Hutto, who is  
 designated by law to accept service of process on behalf of (name of organization) \_\_\_\_\_  
The Corporation Trust Company on (date) 12/4/2023; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other (specify): \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: 12/04/2023

Steven Mitchell

Server's signature

Steve Mitchell Legal Process Server

Printed name and title

**DLS** Discovery, LLC

824 N. Market St.

Suite 108

Wilmington, DE 19801

Additional information regarding attempted service, etc:

## UNITED STATES DISTRICT COURT

for the

District of Delaware

Zaxcom, Inc

*Plaintiff(s)*

v.

Rode Microphones, LLC. and  
Freedman Electronics PTY LTD*Defendant(s)*

Civil Action No. 1:23-cv-01245-CFC

## SUMMONS IN A CIVIL ACTION

To: (*Defendant's name and address*) Rode Microphones, LLC  
 c/o Corporation Trust Center  
 1209 Orange Street  
 Wilmington, DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Sean T. O'Kelly  
 O'KELLY & O'ROURKE, LLC  
 824 N. Market Street, Suite 1001A  
 Wilmington, DE 19801

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 10/31/2023



CLERK OF COURT

/s/ Randall Lohan

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:23-cv-01245-CFC

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for (name of individual and title, if any) Rode Microphones, LLC  
 was received by me on (date) 11/27/2023

☐ I personally served the summons on the individual at (place) \_\_\_\_\_  
 on (date) \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with (name) \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on (date) \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☒ I served the summons on (name of individual) Rubin Huttbanks, who is  
 designated by law to accept service of process on behalf of (name of organization) \_\_\_\_\_

The Corporation Trust Company on (date) 12/04/2023 ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other (specify): \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: 12/04/2023

Steven Mitchell  
 Server's signature

Steve Mitchell Legal Process Server  
 Printed name and title

**DLS** Discovery, LLC  
 824 N. Market St.  
 Suite 108  
 Wilmington, DE 19801

Additional information regarding attempted service, etc:



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RODE MICROPHONES, LLC. and	:	
FREEDMAN ELECTRONICS PTY LTD.,	:	
	:	
Defendants.	:	
	:	
-----	X	

**PLAINTIFF'S MOTION FOR DEFAULT**

**NOTICE OF REJECTED SERVICE OF PROCESS**

Exhibit-A2



December 04, 2023

**Notice of Rejected Service of Process – Log# 545262819**

Agent Served: The Corporation Trust Company  
Party Served: Freedman Electronics PTY LTD  
Jurisdiction Served: Delaware  
Title of Action: ZAXCOM, INC. vs. RODE MICROPHONES, LLC.  
Case No. 123CV01245CFC

Dear Sir/Madam:

We have received documents from you in the above-referenced matter, but we are not able to forward the documents to any party due to the reason indicated below.

☒ **Not Agent:** According to our records and/or the records of the Secretary of State, we are not the registered agent for the party you are attempting to serve.

☐ **Documents Do Not Correctly Identify the Intended Recipient:** The name of the party that you are trying to serve appears to be incomplete and/or there are other errors in how you have identified the party that you are trying to serve. Our company is the registered agent for service of process for hundreds of thousands of entities, and because of your errors in identifying the party that you are trying to serve, we are unable to determine the identity of the party that you are attempting to serve.

☐ **Inactive Entity:** The entity ~~that you are attempting to serve~~ is either discontinued on our records and/or inactive with the Secretary of State. Accordingly, we no longer have any active agreement with the entity to operate as its registered agent for service of process, and we no longer have current delivery instructions on file.

To be clear, for the aforementioned reason(s), we have not been able to forward the documents that you are attempting to serve to any party. We are writing this letter to you so that you can take action to address the problems that we have identified. If you do not correct the errors identified herein, the party you are trying to serve will not receive notice of these documents.

Please email [SOPInquiries@wolterskluwer.com](mailto:SOPInquiries@wolterskluwer.com) if you believe that you have received this letter in error or if you need further assistance.

Very truly yours,  
The Corporation Trust Company

**(Returned To)**

Sean T. O'Kelly  
O'KELLY & O'ROURKE, LLC  
824 N. Market Street, Suite 1001A,  
Wilmington, DE 19801

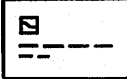
**IN THE UNITED STATES DISTRICT COURT  
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	:	
Defendants.	:	
	:	
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**PLAINTIFF'S MOTION FOR DEFAULT**

**FEDEX TRANSACTION DETAILS**

Exhibit-A3



We've updated FedEx Billing Online and now payments are a breeze. Explore new benefits today!

TRY THE NEW EXPERIENCE ->

FedEx Billing Online

View Cart  
0.00

[Printer-friendly](#)

[Logout](#)

[Help](#)

[Help](#)

[Account Summary](#)

[Search/Download](#)

[My Options](#)

[Message Center](#)

## Tracking ID Details

[Back](#)

### Tracking ID Summary

[Help](#) [Hide](#)

#### Billing Information

Tracking ID no.	774630931324
Invoice no.	2-231-41158
Account no.	3390-2123-6
Bill date	12/30/2023
Total Billed	\$253.95
Tracking ID Balance due	\$0.00
Status	Paid CC

#### Messages

Discount applied is the greater of volume discount [Read More..](#)  
 Rated as FedEx International Priority  
 Fuel Surcharge - FedEx has applied a fuel surcharge [Read More..](#)

[View Invoice History](#)

[View signature proof of delivery](#)

### Transaction Details

[Help](#) [Hide](#)

#### Sender Information

LAURA CARRIG  
 OKELLY OR OURKE, LLC  
 824 N. MARKET ST.  
 SUITE 1001A  
 WILMINGTON DE 19801  
 US

#### Recipient Information

PRIVATE INTL AND COMCIAL LAW S  
 ATTORNEY GENERALS DEPT  
 ROBERT GARRAN OFFICES  
 3-5 NATIONAL CIRCUIT  
 BARTON, ACT AC 2600  
 AU

#### Shipment Details

Ship date	12/30/2023
Tendered date	12/30/2023
Payment type	Shipper
Service type	International Priority
Zone	
Package type	FedEx Box
Actual weight	2.20kgs
Rated weight	4.90lbs
Pieces	1
Meter No.	104322569
Declared value	

#### Charges

Transportation Charge	266.82
Discount	-40.02
Fuel Surcharge	38.74
Peak Surcharge	1.75
Automation Bonus Discount	-13.34
<b>Total charges</b>	<b>\$253.95</b>

#### Original Reference

Customer reference no.	Zaxcom
Department no.	
Reference #2	
Reference #3	

#### Proof of Delivery

Delivery date	2024-01-03T08:37:0008:37
Service area code	PM
Signed by	..BRAD

[View signature proof of delivery](#)

[Notify user](#)

[Dispute](#)

[Back](#)

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Plaintiff,	:	
	:	C.A. No. 23-1245-JFM
v.	:	
	:	
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RODE MICROPHONES, LLC. and	:	
FREEDMAN ELECTRONICS PTY LTD.,	:	
	:	
Defendants.	:	
	:	
-----	X	

**PLAINTIFF'S MOTION FOR DEFAULT**

**HAGUE EMAIL CORRESPONDENCE**

Exhibit-A4

From: **R. Gabler Funke** <[rfunke@okorlaw.com](mailto:rfunke@okorlaw.com)>

Case 1:23-cv-01245-JFM Document 28-1 Filed 03/08/24 Page 14 of 14 PageID #: 529  
Date: Tue, Feb 20, 2024 at 3:50 PM

Subject: Re: Service of Process under Hague Convention

To: <[pil@ag.gov.au](mailto:pil@ag.gov.au)>

Cc: Sean O'Kelly <[sokelly@okorlaw.com](mailto:sokelly@okorlaw.com)>, Gerard O'Rourke <[gorourke@okorlaw.com](mailto:gorourke@okorlaw.com)>

To whom it may concern,

I am following up to see if you are able to answer my prior question. Are you able to provide any information regarding the status of service? Is there anything I could provide to assist in completing service of process?

Best,

Gabe

On Tue, Feb 6, 2024 at 5:26 PM R. Gabler Funke <[rfunke@okorlaw.com](mailto:rfunke@okorlaw.com)> wrote:

To whom it may concern,

My firm represents Zaxcom, Inc. in a lawsuit against Rode Microphones, LLC and Freedman Electronics PTY LTD. Last month, we sent service documents to your office pursuant to the Hague Convention for service on Freedman Electronics at 107 Carnarvon Street, Silverwater, NSW2128.

We understand that it can take months for service to be completed. Therefore, while we are waiting, we would like to verify that your office has received all necessary documents and the request is being processed. The "applicant" who signed the request for service under the Hague Convention is named Gerard M. O'Rourke, Esquire. His signature is dated the 28th day of December, 2023. Please let me know if there is any additional information I can provide to help verify the documents were received. In addition, please let me know if you have any questions or concerns, or if I can otherwise be of assistance.

Best,

Gabe